of this Act, entitle a person to be so registered, as the case may be, and the Schedule shall thereupon be deemed for all purposes to be altered accordingly.

Control. **21.** If at any time it shall appear to the Governor in Council that the Medical Council has failed to exercise or has exceeded or abused any power conferred upon it under this Act or has failed to perform any duty imposed upon it by this Act, the Governor in Council may notify the particulars of such default, excess or abuse to the Medical Council; and if the Medical Council fails to remedy such default, excess or abuse within such time as may be fixed by the Governor in Council in this behalf, the Governor in Council may for the purpose of remedying such default, excess or abuse cause any of the powers and duties of the Medical Council to be exercised and performed by such agency and for such period as he may think fit.

THE SCHEDULE.

1. Doctor, Bachelor and Licentiate of Medicine, and Master, Bachelor and Licentiate of Surgery of the Universities of Bombay, Calcutta, Madras, Allahabad and Lahore.

2. Any person trained in a Government Medical College or School who holds a diploma or certificate granted by Government declaring him to be qualified to practise Medicine, Surgery and Midwifery, or to be qualified for the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.

BOMBAY ACT No. VII OF 1912.[1]

[THE BOMBAY SMOKE-NUISANCES ACT, 1912.]

[*27th June, 1912.*]

An Act for the abatement of nuisances arising from the smoke of furnaces in the Town and Island of Bombay and to provide for the extension thereof to other areas in the Bombay Presidency.

WHEREAS it is expedient to enact a law for the abatement of nuisances arising from the smoke of furnaces in the Town and Island of Bombay and

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1911, Pt. VII, p. 383; for Report of Select Committee, *see ibid*, 1912, Pt. VII, p. 94; and for Proceedings in Council, *see ibid*, 1912, Pt. VII, pp. 42 and 231.

to provide for the extension thereof to other areas in the Bombay Presidency; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Smoke-nuisances Act, 1912.

(2) It extends in the first instance to the Town and Island of Bombay.

Power further to extend Act.

2. (*1*) Government may, by notification published in the Bombay Government Gazette and in such other manner as Government may determine, declare its intention to extend this Act to any specified area in the Bombay Presidency other than the Town and Island of Bombay:

Provided that, if a military cantonment is situated within any area to which it is proposed to extend this Act, no notification shall be published under this sub-section in respect of such area without the previous sanction of the Governor General in Council.

(*2*) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension, submit his objection in writing to Government within a period of three months from the publication of the said notification in the Bombay Government Gazette.

(*3*) At any time after the expiration of the said period, and after considering the objections, if any, submitted under sub-section (*2*), Government may, by notification in the Bombay Government Gazette, extend this Act to the said area.

Definitions.

3. In this Act—

(*1*) "furnace" means any furnace or fire-place used—

(*a*) for working engines by steam, or

(*b*) for any other purpose whatsoever:

Provided that no furnace or fire-place—

(*i*) used for the burning of the dead;

(*ii*) used in a private house for domestic purposes other than the purpose specified in clause (*a*);

shall be deemed to be a furnace or fire-place within the meaning of this Act.

(2) "Inspector" means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act;

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[1] Clause (*ii*) was repealed by s. 2 of the Bombay Smoke-nuisances (Amendment) Act, 1920 (Bom. Act 8 of 1920), *infra*.

(3) "the Commission" means the Bombay Smoke-nuisances Commission constituted under this Act;

(4) "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used;

(5) "owner"—

(a) when used in reference to a furnace, includes any agent or lessee using the furnace, and any foreman or other person superintending the working of the furnace;

Bom. Act III of 1888.

(b) when used in reference to any premises, has the meaning assigned to it in section 3 of the City of Bombay Municipal Act, 1888; and

(6) "Magistrate" means a Presidency Magistrate, a Magistrate of the first class, or a Bench of Magistrates exercising first class powers under the [2]Code of Criminal Procedure, 1898.

V of 1898.

Constitution of Commission.

4. (1) Government shall, by notification in the Bombay Government Gazette, constitute a Commission, to be called the Bombay Smoke-nuisances Commission, to supervise and control the working of this Act.

(2) The said Commission shall consist of a President nominated by Government and so many other members as Government may determine.

(3) One-half of the members (exclusive of the President) shall be nominated by Government; and the remainder shall be elected, in such manner and for such period, as Government may direct, by bodies or associations whose interests are likely to be affected by this Act; and the appointment of all members, whether nominated or elected, shall be notified in the Bombay Government Gazette.

(4) Where a casual vacancy occurs in the case of a nominated member Government shall make a fresh nomination, and where a casual vacancy occurs in the case of an elected member the election shall be made by the same body or association as that which elected the member whose place is to be filled; and a member so nominated or elected shall hold office so long as the member whose place he fills would have been entitled to hold office had the vacancy not occurred.

(5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Commission.

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[1] Vol. III of this Code.

[2] General Acts, Vol. V.

Appointment of Inspectors.

5. (*1*) Government may, by notification in the Bombay Government Gazette, appoint a Chief Inspector of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as they may think fit.

(*2*) Every Assistant Inspector appointed under sub-section (*1*) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to, and subject to the control of, the Commission.

Inspectors to be public servants.

6. Every Inspector appointed under this Act shall, for the purposes of this Act, be deemed to be a public servant within the meaning of the [1] Indian Penal Code. XLV of 1860.

Power to prohibit the erection of kilns or furnaces, or the manufacture of coke, in specified areas: and to inflict penalties.

7. (*1*) Government may, by notification in the Bombay Government Gazette, prohibit within any specified area—

(*a*) the erection of brick, tile or lime kilns,

(*b*) the erection of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals or for the conversion of pig-iron into wrought-iron, or

(*c*) the manufacture of coke in ovens or with special appliances, or

(*d*) the making of coke without ovens or special appliances:

Provided that where, prior to the issue of such notification, a license has been granted by the Municipal Commissioner under the provisions of section 394 of the [2] City of Bombay Municipal Act, 1888, for the erection of a furnace to be used for any of the purposes mentioned in clauses (*a*) and (*b*), such notification shall not affect such furnace or kiln. Bom. Act III of 1888.

(*2*) If any furnace or kiln be erected in contravention of any notification issued under sub-section (*1*), clause (*a*) or (*b*), the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.

(*3*) If any person manufactures coke in contravention of any notification issued under sub-section (*1*), clause (*c*), he shall be liable to fine which may extend on first conviction to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees.

If any person makes coke in contravention of any notification issued under sub-section (*1*), clause (*d*), he shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(*5*) If any coke is made in any building or place in contravention of a notification issued under sub-section (*1*), clause (*d*), the owner or occupier of

[1] Genl. Acts, Vol. I.

[2] Vol. III of this Code.

such building or place shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(6) Where any coal is in process of being made or has been made into coke in contravention of a notification issued under sub-section (1), clause (d), an Inspector may seize such coal or coke, and report the seizure to a Magistrate who may, after such enquiry as he thinks necessary, order such coke or coal to be confiscated, and to be sold in accordance with rules to be made by Government in this behalf under section 11.

Power to order demolition of kilns or furnaces unlawfully erected.

8. (1) A Magistrate imposing a fine on any person under sub-section (2) of section 7 may by order direct such person to demolish the kiln or furnace within a period to be specified in the order.

(2) Any such person failing to demolish any kiln or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.

Penalty for excessive emission of smoke.

9. (1) If smoke be emitted from any furnace in greater density, or at a lower altitude, or for a longer time, than is permitted by rules made under this Act, the owner of the furnace shall be liable to fine which may extend on first conviction to fifty rupees, on second conviction to one hundred rupees, and on any subsequent conviction to two hundred rupees.

(2) Sub-section (1) shall not apply to any furnace which is used—

(a) in connection with a brick, tile or lime kiln, or

(b) for the purpose mentioned in clause (d) of sub-section (1) of section 7.

Powers of Inspectors.

10. (1) Any Inspector may, after giving reasonable notice in writing to the owner, manager, engineer or person in charge—

(a) enter and inspect, during working hours, any building or place which contains a furnace, and inspect such furnace ;

(b) under the written authority of the Commission, use and test any appliance used for preventing the emission of smoke from such furnace ; and

(c) under the written authority of the Commission, direct that any such furnace be worked or stoked experimentally, during his visit to such building or place, in any manner which he may consider suitable for preventing or reducing the emission of smoke, but not so as to interfere with the business carried on in such building or place further than is necessary for the purposes of the experiment.

(*2*) If any owner of a furnace in respect of which a direction is given under clause (*e*) of sub-section (*1*) fails to secure compliance with such direction, he shall be liable to fine which may extend to one hundred rupees :

Provided that where any Inspector has reason to believe that any offence under sub-sections (*2*), (*3*) or (*4*) of section 7 has been or is being committed on any premises it shall be lawful for him to enter on such premises without previous notice and without written authority from the Commission.

Rules. **11.** (*1*) Government may, [1] * * * * after previous publication, make [2] rules to carry out the objects of this Act.

(*2*) In particular, and without prejudice to the generality of sub-section (*1*), such rules may—

(*a*) regulate the transaction of business by the Commission ;

(*b*) prescribe the powers and duties to be exercised and performed by the Commission and by Inspectors, respectively, and regulate the exercise and performance of those powers and duties ;

(*c*) prescribe a scale for the purpose of determining the density of smoke ;

(*d*) prescribe the degree of density of smoke that may be emitted from a furnace ;

(*e*) prescribe the time during which smoke of such density may be emitted from a furnace ;

(*f*) prescribe the altitude below which smoke may not be emitted from a furnace ;

(*h*) prescribe a procedure for the giving of warning to offenders before instituting a prosecution under this Act, and declare the minimum period which should be allowed to elapse in different classes of cases between the giving of such warning and the institution of a prosecution ;

(*i*) fix the amount of fee payable to each or any member of the Commission attending a meeting of the Commission ; and

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[1] The words "with the previous sanction of the Governor General in Council and " were repealed by s. 3 of the Bombay Smoke-nuisances (Amendment) Act 1920, (Bom. Act 8 of 1920), *infra*.

[2] For rules, *see* Bombay Local Rules and Orders.

[3] Clause (*g*) was repealed by s. 3 of the Bombay Smoke-nuisances (Amendment) Act, 1920 (Bom. Act 8 of 1920), *infra*.

(*j*) prescribe a procedure for the sale and disposal of the receipts of the sale of coke or coal confiscated under sub-section (*6*) of section 7.

(*3*) The date to be specified in accordance with clause (*c*) of section 24 of the [1]Bombay General Clauses Act, 1904, as that after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information. Bom. Act I of 1904.

(*4*) Any rule to be made under this Act shall, before it is published for criticism under sub-section (*1*) be referred to the Commission constituted under section 4, and the rule shall not be so published until the said Commission has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

12. A Magistrate may take cognizance of an offence against this Act only— Cognizance of offences.

(*a*) upon a complaint made by, or with the written authority of, the Chief Inspector, and

(*b*) within a period of two months from the date of the commission of the offence,

13. All fines recovered under this Act shall be disposed of in such manner as Government may direct. Disposal of fines.

BOMBAY ACT No. VIII OF 1912.[2]

[THE KHOTI SETTLEMENT AMENDMENT ACT, 1912.]

[*29th June, 1912.*]

An Act further to amend the Khoti Settlement Act, 1880.

WHEREAS it is expedient further to amend the [3]Khoti Settlement Act, 1880, in manner hereinafter appearing; It is hereby enacted as follows :— Bom. Act I of 1880. Preamble.

1. This Act may be called the Khoti Settlement Amendment Act, 1912. Short title.

2. For sections 9 and 10 of the [3]Khoti Settlement Act, 1880, the following shall be substituted :— Bom. Act I of 1880. Amendment of sections 9 and 10.

[1] Vol. IV of this Code.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1911, Pt. VII, p. 391; for Report of Select Committee, *see ibid*, 1912, Pt. VII, p. 93; and for Proceedings in Council, *see ibid*, 1912, Pt. VII, pp. 69 and 256.

[3] Vol. II of this Code.